

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 07/10/08 have been fully considered but they are not persuasive.

The applicant argues with respect to claim 1 on page 9, fourth paragraph that Hulbert does not disclose: "repeating [retransmitting] until a sum determine at the mobile station of the first and further symbol energy amounts...is great enough to...", in as complete detail as claimed in amended independent claim 1. The examiner disagrees. Hulbert clearly teaches the receiving station (mobile station means) is communicating the correction signal to the transmitting station (base station means) by comparing the measured power against the reflect data from receiving station (a sum determined at the mobile station of the first and further symbol energy amounts used to transmit the traffic information is great enough to permit correct demodulation by the mobile station means)(figure 2, col. 3, line 56 to col. 4, line 8).

The applicant argues with respect to claim 3 on page 9, sixth paragraph that the nonobviousness of amended independent claim1 precludes a rejection of claim 3 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. The examiner disagrees. Claim 1 is rejected. Therefore, dependent claim 3 is also rejected.

The applicant argues with respect to claims 7 and 10 on page 10, second paragraph that the nonobviousness of amended independent claim1 precludes a rejection of claims 7 and 10 which depend therefrom because a dependent claim is

obvious only if the independent claim from which it depends is obvious. The examiner disagrees. Claim 1 is rejected. Therefore, dependent claims 7 and 10 are also rejected.

The applicant argues with respect to claims 12 and 13 on page 12, third paragraph that neither Hulbert nor Boettger, either individually or in any proper combination, teach or suggest "a sum determined at the mobile station" as presently claimed. The examiner disagrees. The examiner refers to the same response with respect to claim 1 above.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 8-9, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hulbert (US 5,713,074).

For claim 1, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising the steps of:

(A) intentionally transmitting traffic information from the base station (figure 2, reference 20) with a first symbol energy amount that is intentionally insufficient for correct demodulation of the traffic information by a mobile station (figure 2, reference 22)(col. 3, lines 7-10, and col. 3, lines 17-20);

(B) after step (A), retransmitting from the base station (figure 2, reference 20) the traffic information initially transmitted with the first symbol energy amount, wherein the

traffic information is retransmitted in step (B) with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3 lines 17-20); and

(C) repeating step (B) until a sum determined at the mobile station of the first and further symbol energy amounts used to transmit the traffic information is great enough to permit correct demodulation by the mobile station (col. 3, lines 7-24, and col. 4, lines 1-10).

For claim 3, Hulbert disclose wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station using fast forward power control (col. 2, lines 10-11).

For claim 4, Hulbert discloses further comprising the steps of:

(D) determining, at the mobile station (figure 2, reference 22), a received energy value corresponding to the traffic information transmitted from the base station (figure 2, reference 20) in step (A)(col. 3, lines 14-17); and

(E) transmitting the received energy value from the mobile station (figure 2, reference 22) to the base station (figure 2, reference 20)(col. 3, lines 7-10);

(F) wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station (figure 2, reference 20) in accordance with the received energy value transmitted from the mobile station (figure 2, reference 22)(col. 3, lines 21-24).

For claim 5, Hulbert discloses wherein the received energy value is transmitted from the mobile station to the base station (figure 2, reference 20) using an acknowledgement protocol (col. 3, lines 7-10).

For claim 6, Hulbert discloses wherein acknowledgement protocol is transmitted between the base station (figure 2, reference 20) and the mobile station (figure 2, reference 22) using forward and reverse control channels (col. 3, lines 7-10).

For claim 8, Hulbert disclose wherein the received energy value is transmitted from the mobile station (figure 2, reference 22) to the base station (figure 2, reference 20) using a negative acknowledgement protocol (col. 3, lines 7-10).

For claim 9, Hulbert disclose wherein acknowledgement protocol is transmitted between the base station (figure 2, reference 20) and the mobile station (figure 2, reference 22) using forward and reverse control channels (col. 3, lines 7-10).

For claim 11, Hulbert discloses further comprising the step of:

(D) summing the traffic information transmitted with the first symbol energy amount in step (A) with the traffic information transmitted with the further symbol energy amount in step (B) by combining received energy associated with the traffic information transmitted with the first symbol energy amount in step (A) with received energy associated with the traffic information transmitted with the further symbol energy amount in step (B) in a buffer at the mobile station (figure 2, reference 22)(col. 3, lines 21-24, and col. 4, lines 1-10); and

(E) demodulating the traffic information at the mobile station in accordance with the result of step (D)(col. 3, lines 7-10, and col. 4, lines 1-10).

For claim 14, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) means for intentionally transmitting traffic information from the base station (figure 2, reference 20) with a first symbol energy amount that is insufficient for correct demodulation of the traffic information by a mobile station (figure 2, reference 22)(col. 3, lines 7-10, and col. 3, lines 17-20); and

(B) means for re-transmitting the traffic information with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (figure 2, reference 22)(col. 3, lines 17-20); and

(C) means for repeating step (B) until a sum determined at the mobile station of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation by the mobile station (figure 2, reference 22)(col. 3, lines 7-24, and col. 4, lines 1-10).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (US 5,713,074) in view of Seo (US 6,581,176).

For claims 7 and 10, Hulbert does not expressly disclose wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel. In an analogous art, Seo discloses wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel (col. 1, lines 53-55).

Seo discloses wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel (col. 1, lines 53-55 as set forth in claim 10).

One skilled in the art would have recognized the wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel, and would have applied Seo's SCH in Hulbert's power control device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Seo's method for transmitting control frames and user data frames in mobile radio

communication system in Hulbert's mobile radio power control device using the comparison of retransmitted data with the motivation being transmitted the NAK control frames over a supplemental channel (SCH) (col. 1, lines 53-54).

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (US 5,713,074) in view of Boettger et al. (US 6,625,132).

For claim 12, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) a power allocation unit at the base station controller (figure 2, reference 20) that selects a first symbol energy amount for transmitting traffic information from the base station transceiver (figure 20, reference 20a) to the mobile station (figure 2, reference 22), wherein the power allocation unit allocates power among a number of different streams of the traffic information (col. 3, lines 20-21-22) such that none of the streams are initially transmitted with enough power for correct demodulation by the mobile station (figure 2, reference 22), and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station transceiver (figure 2, reference 20a) to the mobile station (figure 2, reference 22), wherein the further symbol energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station (figure 2, reference 22)(col. 3, lines 17-24);

(B) a base station transmitter (figure 2, reference 20a) that initially transmits the traffic information from the base station transceiver to the mobile station (figure 2, reference 22) at the first symbol energy amount and subsequently transmits the traffic

information from the base station transceiver (figure 2, reference 20a) to the mobile station (figure 2, reference 22) at the further symbol energy amount (col. 3, lines 21-24); and

(C) combines retransmitted traffic information from each of the streams of the traffic information until a sum determined at the mobile station of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation by the mobile station (figure 2, reference 22)(col. 3, lines 7-24, and col. 4, lines 1-10).

However, Hulbert does not expressly disclose a buffer in the mobile station. In an analogous art, Boettger et al. disclose a buffer in the mobile station (figure 6B, reference 662, col. 11, line 5).

One skilled in the art would have recognized the buffer in the mobile station, and would have applied Boettger et al.'s buffer 662 in Hulbert's power control device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Boettger et al.'s idle intersystem roaming determination and system reselection in a CDMA wireless communication system in Hulbert's mobile radio power control device using the comparison of retransmitted data with the motivation being stored data.

For claim 13, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) a power allocation unit at the base station (figure 2, reference 20) that selects a first symbol energy amount for transmitting traffic information from the base station to

the mobile station (figure 2, reference 22), wherein the first symbol energy amount is insufficient for correct demodulation of the traffic information by the mobile station, and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station (figure 2, reference 22) to the mobile station (figure 2, reference 22), wherein the further symbol energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3, lines 7-24); and

(B) a base station transmitter (figure 2, reference 20a) that initially transmits the traffic information from the base station (figure 2, reference 20) to the mobile station (figure 2, reference 22) at the first symbol energy amount and subsequently transmits the traffic information from the base station (figure 2, reference 20) to the mobile station (figure 2, reference 22) at the further symbol energy amount (col. 3, lines 21-24); and

(C) combines retransmitted traffic information until a sum determined at the mobile station of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation (col. 3, lines 7-24, and col. 4, lines 1-10).

However, Hulbert does not expressly disclose a buffer in the mobile station. In an analogous art, Boettger et al. disclose a buffer in the mobile station (figure 6B, reference 662, col. 11, line 5).

One skilled in the art would have recognized the buffer in the mobile station, and would have applied Boettger et al.'s buffer 662 in Hulbert's power control device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention, to use Boettger et al.'s idle intersystem roaming determination and system reselection in a CDMA wireless communication system in Hulbert's mobile radio power control device using the comparison of retransmitted data with the motivation being stored data.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN D. NGUYEN whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./
Examiner, Art Unit 2416

/FIRMIN BACKER/
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